



Illinois Department of Transportation

2300 South Dirksen Parkway / Springfield, Illinois / 62764

BDE PROCEDURE MEMORANDUM

NUMBER: 43-04

SUBJECT: Coordination with IDNR on Natural Resource Issues

DATE: October 8, 2004

This memorandum supersedes the information in Section 22-5.05 of the BDE Manual 2002.

The accompanying attachment contains revised information for Section 22-5.05 of the BDE Manual. The changes are the result of an updated *Natural Resource Review and Coordination Agreement* that was executed by this Department and the Illinois Department of Natural Resources in July of this year. The updated interagency Agreement was the product of negotiations between the two agencies to decide how screening of projects against the Natural Heritage Database, previously an IDNR function, could be handled by IDOT to help streamline the coordination process. In accordance with the Agreement, BDE will now handle the screening and will provide the results to the Districts with a copy to IDNR for action as described in the accompanying attachment.

The IDOT/IDNR Agreement also was modified to clarify the basis for closing project consultation on threatened and endangered species impacts where IDNR has made a recommendation for obtaining an incidental taking authorization (see BDE Procedure Memorandum 31-03). Those changes also are reflected in the attachment.

The information in the attachment is effective immediately.

Engineer of Design and Environment

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Attachment

22-5.05 Coordination with IDNR on Natural Resource Issues

References: Section 26-3 *Section 6(f) Land Conversion Request*
Section 26-4 *OSLAD Land Conversion Request*
Section 26-9.06 *State Requirements (for Threatened and Endangered Species)*

22-5.05(a) Interagency Agreement

Coordination with the Illinois Department of Natural Resources (IDNR) for highway projects is governed by a *Natural Resource Review and Coordination Agreement* between IDOT and IDNR. The initial Agreement was signed by both agencies in January of 1996 and an amended version was executed in July of 2004. The Agreement establishes a framework for early coordination on natural resource issues and for follow-up coordination as necessary for compliance with statutory and regulatory requirements under the jurisdiction of IDNR. The following sections reflect the key provisions of the Agreement.

22-5.05(b) General Principles of Coordination

Project coordination with IDNR will be conducted in accordance with the principles discussed in the following paragraphs.

All official comments, recommendations, and responses by either IDNR or IDOT will be in writing, except in emergency situations which are defined in IDNR administrative rules (17 Ill. Adm. Code 1075). Verbal responses may be allowed for urgent situations, with a written response due within five days following the action taken.

The IDNR Transportation Program Manager and the IDOT BDE will be the primary contacts for coordination of IDOT project information. The IDNR Transportation Program Manager is responsible for ensuring that appropriate offices within IDNR receive IDOT project information for review in response to identified resource involvements. The IDNR Transportation Program Manager also will be responsible for notifying IDOT of any additional information needed for IDNR to complete its review. The IDOT contact will be responsible for supplying IDNR the information necessary to complete the review of a project, including the initial information for IDNR review of the results of screening against the Natural Heritage Database by BDE (see Section 22-5.05(c)) and additional information for projects that have resource involvements requiring submittal to IDNR for a more thorough review.

The review conducted by IDNR is valid for three years from the close of the response period for the most recent screening results [22-5.05(c)1.D.], or, if resources are involved, from the date upon which IDOT and IDNR conclude formal coordination necessary to address resources covered by the IDOT/IDNR coordination Agreement. If the project has not commenced (i.e., been advertised for bid letting) in that time, it must be re-screened by BDE and resubmitted for IDNR review of the screening results. Districts must submit a memorandum to BDE to request

re-screening of a project. A copy of the Environmental Survey Request (ESR) and accompanying project location information that was returned to the District following initial screening, or for projects with resource involvements, a copy of the Agency Action Report that was coordinated with IDNR, should be submitted with the memorandum.

(Districts will be responsible for ensuring that valid screening results and, for projects with resource involvements, a valid IDNR response providing closure on applicable resource issues, are in effect at key decision points up to when the project is advertised for bid letting. See Section 22-5.05(c)4 Follow-up Coordination and Reporting.)

22-5.05(c) Review Process

1. Screening Against the Natural Heritage Database

For projects affecting only agricultural crop land or urban properties developed for residential, commercial, or industrial purposes, screening against the information in the Natural Heritage Database will not be necessary unless it is evident from information known to IDOT that a threatened or endangered species, Illinois Natural Areas Inventory (INAI) site, or Illinois Nature Preserve may be adversely affected. For all other projects, BDE shall use the IDNR's Natural Resource Review Tool (NRRT) to screen the actions against the Natural Heritage Database in accordance with the following terms:

- A. For purposes of screening projects against the Natural Heritage Database, BDE will use the most recent information in the data layers for endangered and threatened species locations, INAI sites, and Illinois Nature Preserves.
- B. BDE will examine each of the three aforementioned data layers for the project "footprint", the area that would be occupied by the physical components of the project when constructed, and an area at least one mile laterally beyond the project footprint. (When a project may affect areas beyond the one mile distance, such as in downstream aquatic resources, BDE will check the data layers for an area sufficient to address the extent of the anticipated impacts). This examination will evaluate whether any known locations of threatened or endangered species, INAI sites, or Illinois Nature Preserves are within the area of the project's potential environmental effects such that they would require consultation pursuant to the Illinois Endangered Species Protection Act or the Illinois Natural Areas Preservation Act.
- C. For all projects screened against the Natural Heritage Database, BDE will transmit an electronic copy of the results to the IDNR Division of Resource Review and Coordination. The electronic results will include a link to the NRRT that will show the limits of the area examined and the data layers used for the screening. The following will apply to the transmittals from BDE:

- (1) If screening identifies no endangered or threatened species, INAI sites, or nature preserves within the area examined, BDE will include with the transmittal of the results a recommendation that further consultation should not be necessary.
 - (2) If screening identifies one or more threatened or endangered species, INAI sites, or nature preserves within the area examined, BDE will include with the transmittal of the results an Agency Action Report (AAR). BDE also may include an evaluation of the extent to which the project may affect the identified resources and an indication of whether or not field studies and/or further consultation are recommended.
- D. If screening identified no endangered or threatened species, INAI sites, or nature preserves within the area examined, IDNR will have 10 working days from the receipt of screening results to advise BDE of any differences in screening findings or the associated recommendations based on its review. If IDNR does not respond within the 10-day period, that will signify IDNR agreement with the findings and recommendations provided by BDE.
- E. If screening identified one or more threatened or endangered species, INAI sites, or nature preserves within the area examined, IDNR will have 30 calendar days from the receipt of the AAR to provide its response to IDOT indicating whether any field studies are recommended, and whether or not further consultation, and preparation of a Detailed Action Report, is necessary.

2. Determining Need for Further IDNR Review

After the initial screening, IDOT will review proposed projects (using maps, aerial photos, field surveys, etc.) to determine if they potentially involve other resource issues listed in Figure 22-5A.

If IDOT determines on the basis of its review that a project does not involve any issues of interest to IDNR, the project is not required to be submitted to IDNR for further review.

If IDNR recommended surveys during the initial screening process, IDOT will provide copies of the survey results to IDNR. If the surveys were not conducted as recommended, IDOT will provide documentation to support this decision. When any of the resources in Figure 22-5A are determined to occur in the area the proposed project may affect, IDOT will determine whether the resources are covered by a programmatic agreement between IDOT and IDNR for avoidance and mitigation of impacts. If the resources are covered by such an agreement and the project will comply with the agreed terms, no further coordination with IDNR is necessary.

Resource	Further Clarification
Wetlands	
Streams	Includes Class I Streams and their riparian corridor
Forests/Trees	The bisecting of a forest or the removal of a significant number of trees*
Prairie/Savanna Areas	
IDNR Properties	
Nature Preserves/Natural Area Inventory sites or sites on the Register of Land and Water Reserves	
Threatened and Endangered Species	Includes previously documented occurrences of which IDOT is aware and occurrences identified through the Natural Heritage Database

* *Forests/Trees. If any of the following conditions apply, the project will be submitted to IDNR for completion of the natural resource review process:*

- *a project on new alignment involving impacts to a block of trees equal to or greater than 20 acres (8 ha);*
- *the removal of trees that would bisect or fragment a 20-acre (8 ha) or greater block of trees not associated with a stream corridor; or*
- *within a stream corridor:*
 - + *a project on new alignment on any stream segment, or*
 - + *a project on existing alignment if a Class I Stream is involved.*

Work involving the removal of dead and diseased trees for safety reasons need not be coordinated with IDNR for review.

**INVOLVEMENT OF NATURAL RESOURCES
(IDNR Review)
Figure 22-5A**

3. Coordinating with IDNR for Project Review

If identified resources involved with a project are not covered by a programmatic agreement, or if IDOT is unable to comply with the terms of such an agreement, IDOT will prepare and submit to the IDNR Transportation Program Manager a Biological Resources Review (BRR). The BRR shall indicate the results of fieldwork conducted and shall describe efforts made to avoid or minimize adverse impacts to the identified resources. If the translocation of a listed species is proposed, IDOT will provide sufficient information in the BRR to enable IDNR to evaluate the likelihood of success.

The IDNR Transportation Program Manager will review the BRR and supporting documentation and will coordinate with appropriate staff to determine whether further analysis or recommendations are required. After the review and within 90 days of receipt of the BRR, IDNR will submit one of the following responses to IDOT:

- A. IDNR accepts the conclusions/proposals contained in IDOT's BRR and provides a form indicating successful closure of the threatened and endangered species consultation process and compliance with the Interagency Wetland Policy Act. If it appears the proposed project may result in the killing or injuring of an Illinois-listed animal species, IDNR may include a recommendation that IDOT should obtain an incidental taking authorization prior to proceeding with project construction. In this case, IDNR will close consultation upon receipt of an acknowledgement from IDOT indicating that it will apply for an incidental taking authorization prior to commencing any construction that would result in the killing or injuring of a listed animal species. The sign-off is valid for three years from the date of the AAR or from the date of resource issue resolution, if other resources are involved.
- B. IDNR does not accept the conclusions/proposals contained in IDOT's BRR and makes recommendations on how impacts might be avoided or further minimized. Both agencies have 45 days to resolve any differences that may remain upon which time IDNR shall provide IDOT a sign-off indicating compliance with both State Acts. If it appears the proposed project may result in the killing or injuring of an Illinois-listed animal species, IDNR may include a recommendation that IDOT should obtain an incidental taking authorization prior to proceeding with project construction. In this case, IDNR will close consultation upon receipt of an acknowledgement from IDOT indicating that it will apply for an incidental taking authorization prior to commencing any construction that would result in the killing or injuring of a listed animal species. If resolution is not reached within the 45-day period, the process ends and is classified as having failed or partially failed to protect the resource involved; a decision is made to elevate the issue(s) within each agency; or, upon mutual agreement by both parties, negotiations may continue.

4. Follow-up Coordination and Reporting

IDOT shall implement the project and mitigation as agreed and will apply for an incidental taking authorization prior to commencing construction that would result in the killing or injuring of an Illinois-listed animal species. Any reports required by the Agreement shall be submitted to the IDNR Transportation Program Manager for review and coordination with other appropriate IDNR staff.

IDOT shall monitor wetland mitigation project(s) as agreed or required by the wetland compensation plan and shall submit reports to the IDNR as indicated in the plan.

IDNR may request a list from IDOT, partial or complete, of the projects in the preceding calendar year that were not submitted for IDNR review.

If, during development of a project, new information is obtained or the scope of the project changes to the extent the IDNR would have been involved initially, IDOT shall contact the IDNR Transportation Program Manager to discuss the need for further coordination. Also, if IDNR is concerned with a resource issue not reflected in Figure 22-5A or if new information becomes available after the project review has been completed, IDNR may request that IDOT submit the project for review.

On projects subject to initial screening and, when applicable, coordination with IDNR because of resource involvements, Districts must carefully monitor the progress of the project in relation to the timeframe for the validity of the screening results and the IDNR response on resource issue resolution (if resource issues are involved).

For projects processed as Categorical Exclusions (CEs), valid screening results and, when applicable, a valid IDNR response on final resource issue resolution must be in place when the project is submitted for CE approval and when the project is advertised for bid letting.*

For projects processed with an EA/FONSI, valid screening results and, when applicable, a valid IDNR response on final resource issue resolution must be in place when the EA is made available for public inspection and when the project is advertised for bid letting.*

For projects processed with an EIS, valid screening results and, when applicable, a valid IDNR response on final resource issue resolution must be in place when the Draft EIS is circulated, when the Final EIS is circulated, and when the project is advertised for bid letting.*

For projects that do not have resource involvements, if it becomes necessary to re-screen to provide valid results at the aforementioned processing points, the District should submit a memorandum to BDE requesting re-screening. A copy of the ESR and accompanying project location information that was returned to the District after initial

screening should be provided with the memorandum. BDE will re-screen the project and will coordinate the results with IDNR for review prior to sending them to the District.

For projects that have resource involvements, if it becomes necessary to re-coordinate with IDNR to provide a valid IDNR response at the aforementioned processing points, the district should send a memorandum to BDE requesting re-submittal of the project to IDNR. A copy of the original AAR should be provided with the memorandum. BDE will re-screen the project and will forward the AAR and the updated screening results to the IDNR Transportation Program Manager with a request for renewal of the IDNR response.

- * For adverse wetland impacts that are subject to coordination with IDNR as "Standard Review Actions" under the IDOT Wetlands Action Plan, IDNR approval of a conceptual wetland compensation plan will qualify as the "resource issue resolution" response on the wetlands aspect for purposes of the project environmental documentation. IDNR approval of a detailed wetland compensation plan will be required for "final resource issue resolution" prior to advertising "Standard Review Actions" for letting.*

For impacts to State-listed endangered or threatened species, the Biological Opinion provided by IDNR in response to a Detailed Action Report will be the "resource issue resolution" response on the endangered species aspect for purposes of the project environmental documentation. If the project will involve an incidental taking of a State-listed species, an incidental taking authorization from IDNR will be required for "final resource issue resolution" prior to awarding the project.